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SENATE

REPORT
98-530

AMENDING THE JOHN F. KENNEDY CENTER ACT

JUNE 25, 1984.—Ordered to be printed

Mr. STAFFORD, from the Committee on Environment and Public Works, submitted the following

REPORT

Together with

Additional views

[To accompany S. 2562]

The Committee on Environment and Public Works to which was referred the bill (S. 2562) to amend the John F. Kennedy Center Act, and for other purposes having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

BACKGROUND

In 1958, the Congress enacted the "National Cultural Center Act" to establish a cultural center in Washington. The Act authorized no federal funds, anticipating financing from private contributions. In 1964, the "John F. Kennedy Center Act" amended the 1958 Act in order to designate the center as the "John F. Kennedy Center for the Performing Arts", making it the national memorial to the late President. That Act also authorized a Federal contribution of $23 million to be matched by private contributions for the construction of the facility.

When private contributions and the Federal match proved to be insufficient to complete the building, the Congress in 1969 amended the statute further to authorize the Center's Board to Trustees to issue revenue bonds to the Secretary of the Treasury to finance the construction of the parking garage.

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Pursuant to this authority, the Board issued bonds with an aggregate face value of $20.4 million. The interest rates on the bonds ranged from 5⅛ to 6⅝ percent with maturities of 50 years. (The bonds come to maturity beginning in the year 2017 and ending in 2019). Simple interest on the $20.4 million principal totals $1.3 million a year.

The 1969 statute also provided that the interest payments on the bonds may be deferred with the approval of the Secretary of the Treasury, but any interest deferred was to bear interest at rates prevailing at the time of such deferrals. At the Board's request, the Secretary of the Treasury has deferred all payments of simple interest and compounded interest. At the end of fiscal year 1983, total interest owed to the Treasury totaled $28.6 million. When added to the principal, the Center's indebtedness on the garage totaled $49 million.

While the Act authorizes the issuance of "revenue bonds," which were to be "payable from revenues accuring to the Board," and while the bonds themselves recite that both interest and principal are to be payable from parking revenues, to date the Board has set aside no funds to amortize the principal or pay interest.

According to audits by the General Accounting Office, net operating profits from the parking garage have never been adequate to pay fully the simple interest of $1.2 million a year (see tables 1 and 2). On the other hand, parking revenues have been used to finance operating expenses of the Center, and to secure two loans from the private sector.

Short of resources to complete construciton of the Center, in 1972 the Board of Trustees secured a $3.5 million advance from the firm of Airport Parking Company of American-Washington (APCOA). The Board pledged a portion of the Center's share of parking revenues for 15 years to repay that loan. This contractual arrangement allowed timely completion of the Center, but undercut its ability to repay its obligation to the Treasury.

Net operating profits of the Center's parking garage from 1972 through 1983 totaled $10.5 million (see tables 1 and 2). Of that amount, $5.4 million was used to pay principal and interest on the $3.5 million advance made to the Board by APCOA. In addition, APCOA received $2.6 million—its share of profits under the contractual agreement. The Center's share of the $10.5 million has been $2.6 million. None of this amount has been applied to the outstanding obligation to the Treasury.

GENERAL ACCOUNTING OFFICE REPORT GGD–80–39, APRIL 24, 1980

TABLE 1.—PARKING REVENUES AND CENTER'S SHARE

	1972	1973	1974	1975	1976 and transition quarter	1977	1978	Total
Gross revenue	$1,084,868	$1,129,208	$1,221,833	$1,261,373	$1,427,880	$1,377,994	$1,213,270	$8,716,426
Expenses:								
Operations	184,180	170,972	195,555	[1] 283,529	[1] 328,394	[1] 369,767	[1] 352,242	1,884,639

TABLE 1.—PARKING REVENUES AND CENTER'S SHARE—Continued

	1972	1973	1974	1975	1976 and transition quarter	1977	1978	Total
Management fee (5 percent of gross revenue)	54,243	56,460	61,092	63,069	71,394	68,900	60,663	435,821
Total	238,423	227,432	256,647	346,598	399,788	438,667	412,905	2,320,460
Net operating profit	846,445	901,776	965,186	914,775	1,028,092	939,327	800,365	6,395,966
Payments on advance:								
Interest [2]	201,250	310,233	326,083	210,001	166,833	180,833	225,750	1,621,083
Amortization of principal	233,333	233,333	233,328	233,333	233,333	233,323	233,323	1,633,316
Total	434,583	543,666	559,411	443,334	400,166	414,161	459,078	3,254,399
Balance available	411,862	358,110	405,775	471,441	627,926	525,166	341,287	3,141,567
Center's share (50 percent)	205,931	179,055	202,888	235,720	313,963	262,583	170,643	1,570,783
Less validations [3]	32,507	13,422	11,855	12,010	12,065	11,973	14,464	108,296
Center's net share	173,424	165,633	191,032	223,711	301,898	250,610	156,179	1,462,487

[1] Includes $72,000 paid to the Center for utilities.
[2] Interest is determined by the prime rate of the Chase Manhattan Bank at November 15 of each year. The rate was 5¾ percent in 1972, 9½ percent in 1973, 10¾ percent in 1974, 7½ percent in 1975, 6½ percent in 1976, 7¾ percent in 1977, and 10¾ percent in 1978.
[3] A patron purchasing tickets is allowed 30 minutes of free parking for which payment is made by the Center to the parking concessionaire.

GENERAL ACCOUNTING OFFICE REPORT GGD–84–50, APRIL 11, 1984

TABLE 2.—PARKING REVENUES AND CENTER'S SHARE

	Fiscal year—					
	1979	1980	1981	1982	Unaudited 1983	Total
Gross revenue	$1,113,678	$1,119,505	$1,268,494	$1,265,207	$1,681,783	$6,448,667
Expenses:						
Operations [1]	363,006	350,977	351,389	385,466	532,491	1,983,329
Management fee (5 percent of gross revenue)	55,684	55,975	63,425	63,260	84,089	322,433
Total	418,690	406,952	414,814	448,726	616,580	2,305,762
Net operating profit	694,988	712,553	853,680	816,481	1,065,203	4,142,905
Payment on advance:						
Interest [2]	273,437	262,209	236,548	162,755	92,168	1,027,117
Amortization of principal	233,328	233,328	233,328	233,328	194,440	1,127,752
Total	506,765	495,537	469,876	396,083	286,608	2,154,869
Balance available	188,223	217,016	383,804	420,398	778,595	1,988,036
Center's share (50 percent)	94,111	108,508	191,902	210,199	389,298	994,018
Less validations [3]	15,510	12,654	15,452	14,339	13,903	71,858
Center's net share	78,601	95,854	176,450	195,860	375,395	922,160

[1] Includes $72,000 paid to the Center for utilities.
[2] Interest was determined by the prime rate of the Chase Manhattan Bank at November 15 of each year.
[3] A patron purchasing tickets is allowed 30 minutes of free parking for which payment is made by the Center to the parking concessionaire.

In July, 1983, the Board obtained a $2 million loan from American Security Bank, secured by future parking revenues. The proceeds were used, in part, to pay off the remaining $825,000 balance

of the APCOA loan, thus enabling the Center to increase its share of net profits from parking from 50 percent to 70 percent. The Board will pay off this loan over four years by paying $500,000 a year plus interest (prime rate), ending August 1, 1987.

Since the garage advance is now paid off, the Center's share of the income from the parking concession should increase in future years. In its April, 1984, report (GAO/GGD-84-50, April 11, 1984 entitled "Financial Problems of the John F. Kennedy Center for the Performing Arts Need To Be Addressed") the GAO projects that given the Center's increased share of net operating profits and no change in parking fees, and assuming that net operating profits remain at fiscal year 1983 levels in the future, the Center would receive about $746,000 per year when the bank loan is repayed in 1987. This amount the GAO states, is about $490,000 more than the Center's net share in fiscal year 1983.

Officials of the Kennedy Center maintain that there are no prospects of paying the deferred interest, and that due to escalating operating costs and their programming responsibilities it is unrealistic to expect the Board to pay interest in the future. They have testified that the maximum amount the Center can realistically afford is about $200,000 a year toward retirement of the bond principal.

Purpose of the Legislation

The bill would, upon enactment, cancel any obligation on the part of the Board to pay all deferred interest on the principal and compounded interest on such deferred interest. It would also relieve the Board from the obligation to pay future interest on the bonds.

Beginning in 1987, S. 2562 would also establish a fund in the Treasury of the United States and require the Board to pay into the fund an annual sum of $200,000 toward amortization of the principal amount of the bonds. Annual sums so deposited would be credited with interest, based upon the current average market yield on outstanding marketable obligations of the United States with maturities comparable to the maturities of the Kennedy Center bonds which are held by the Treasury. Assuming an interest rate of 7% in future years, the $6 million in annual installment payments by the Board ($200,000 per year times 30 years) together with accumulated interest on the deposits into the fund would be sufficient to retire the bonds in 30 years—when they begin to come due in the year 2017.

From time to time adjustments may be made to the annual payment of $200,000 to correct any gain or deficiencies as a result of fluctuations in interest rates, provided such adjustments do not exceed five percentum. A final adjustment shall be made at the end of the amortization period to correct any overall gain or deficiency. The terms of this adjustment are to be covered in a memorandum of understanding between the Board of Trustees of the Kennedy Center and the Secretary of the Treasury to be consummated on or before the time of the initial payment by the Center.

HEARING

On April 26, 1984 the Committee held a hearing on proposed refinancing of Kennedy Center bonded indebtedness. Testimony was received from John Kilcoyne of the Department of the Treasury, Manus J. Fish of the Department of the Interior, William Anderson of the General Accounting Office, and Roger L. Stevens of the John F. Kennedy Center of the Performing Arts.

ROLLCALL VOTES DURING COMMITTEE CONSIDERATION

Section 7(b) of rule XXVI of the Standing Rules of the Senate and the rules of the Committee on Environment and Public Works require that any rollcall votes taken during consideration of the bill be announced in this report.

The Committee considered S. 2562 on June 19, 1984 and ordered the bill to be reported by a rollcall vote which is announced as 11–2.

Voting in the affirmative to report S. 2562 were Senators Stafford, Baker, Chafee, Simpson, Abdnor, Evans, Randolph, Burdick, Moynihan, Baucus and Lautenberg. Voting in the negative were Senators Symms and Humphrey.

EVALUATION OF REGULATORY IMPACT

In accordance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has evaluated the regulatory impact of the bill. This legislation creates no new regulatory requirements.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. A copy of that statement follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 25, 1984.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 2562, a bill to amend the John F. Kennedy Center Act, and for other purposes, as ordered reported by the Senate Committee on Environment and Public Works, June 19, 1984.

The bill forgives unpaid interest and waives future interest on the $20.4 million in revenue bonds issued by the John F. Kennedy Center to the Treasury between 1968 and 1970. The bill also establishes the Kennedy Center Revenue Bond Sinking Fund, into which the Kennedy Center will deposit $200,000 per year beginning in 1987. Those deposits are to be invested in public debt securities, and the interest is to be credited to the fund. Amounts in the fund are to be used to retire the bond obligations as they come due in the years 2017–2019. In addition, adjustments of plus or minus 5

percent may be made in the payments to the fund in order to correct any deficiencies or surplus as a result of fluctuations in interest rates.

Under current law, the Kennedy Center is obligated to pay $1.2 million per year in interest to the Treasury on the revenue bonds. No interest payments have been made to date, and by December 1983, the accumulated interest obligation had reached $29.4 million. Assuming enactment of S. 2562 on or about September 30, 1984, the bill would forgive accrued interest of over $32 million, and would remove the requirement for future interest payments in excess of $4 million per year.

S. 2562 would thus have the effect of increasing receipts to the Treasury by $200,000 annually, offset by any loss of interest that might otherwise be collected. However, it appears unlikely that much, if any, of the interest obligations would ever be paid. While the bonds are secured by parking garage revenues, the Kennedy Center currently uses these revenues to pay certain operating expenses and other obligations incurred to complete construction of the parking facilities. Also, the Kennedy Center receives only 70 percent of these revenues; the remainder goes to the parking concessionaire. These revenues are not sufficient to meet the interest obligation to the Treasury. (In 1983, the Center's share of parking revenues was approximately $256,000, net of certain loan payments. The Center's share of these revenues would be approximately $750,000 per year by 1987, assuming net profits continue at 1983 levels.)

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ERIC HANUSHEK
(For Rudolph G. Penner, Director).

ADDITIONAL VIEWS OF MR. EVANS

Although I support the Committee bill, I believe it represents a lost opportunity to improve and resolve the continuing financial difficulties facing the John F. Kennedy Center for the Performing Arts. The bill, as reported, addresses only a portion of these problems—forgiving past interest on the bond principal but requiring an annual payment of $200,000 toward the principal itself. Is this meager payment justified by the possible adverse effects it may have on the Kennedy Center's ability to provide its diverse and unique programming?

During consideration of the bill by the Committee, I offered an amendment that was not accepted by the Committee. My proposal would have done three things, all of which I think are important to do. The first is to recognize reality as the Committee bill does and that is to forgive the past interest and any interest accruing up to 1987.

The second part would have dealt with the problem of payments by the Kennedy Center on the bond principal and interest on that principal; this was estimated to be $1.5 million annually. However, my proposal would have allowed private contributions made to the Kennedy Center for funding public service activities to be applied against that debt. If the amounts raised by the Kennedy Center are sufficient to cover all of the debt, so be it. A large percentage of the Kennedy Center's funding comes from private contributions and I think that ought to be encouraged; my proposal provided that extra incentive.

The third part would have specifically recognized the Kennedy Center as a Presidential memorial and therefore the property of the Federal government. In this way, Federal responsibility would have been extended to cover future structural repairs. I continue to find it rather interesting and somewhat ironic that the relationship of the Kennedy Center to the Federal government is apparently unclear.

The Kennedy Center is a national treasure and should be recognized as such. If it were in any other Western country it would be treated with deference and handsomely supported. In its wisdom, Congress has directed the Kennedy Center to present a diverse performing arts program designed to expand participation in the performing arts by different ethnic and regional artists. The Center also provides special programs for children, for the handicapped, for the elderly. These are not always the most popular or profitable programs. It would be easier if the Kennedy Center were to schedule the most popular, the easiest to sell, cheapest to stage performances and devote itself to the business of making money. But this is not the purpose of the Kennedy Center—rather, the purpose of the Center is to enrich our lives and encourage the talent so abundant in our Nation.

The Kennedy Center has become an indispensable part of this Nation's cultural life. To continue its role, the Center requires substantial support, both financial and philosophical. The Committee bill misses the mark on several counts. I hope that in the very near future we will accept our responsibilities for this great cultural center and will provide the recognition and long-term support the Kennedy Center so justly deserves.

DANIEL J. EVANS.

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman:

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS (20 U.S.C. 76)

* * * * * * * *

§ 76o(*a*) To finance necessary parking facilities for the Center, the Board may issue revenue bonds to the Secretary of the Treasury payable from revenues accruing to the Board. The total face value of all bonds so issued shall not be greater than $20,400,000. [The interest payments on such bonds may be deferred with the approval of the Secretary of the Treasury but any interest payments so deferred shall themselves bear interest after June 30, 1972. Deferred interest may not be charged against the debt limitation of $20,400,000.] Such obligations shall have maturities agreed upon by the Board and the Secretary of the Treasury but not in excess of fifty years. Such obligations may be redeemable at the option of the Board before maturity in such manner as may be stipulated in such obligations, but the obligations thus redeemed shall not be refinanced by the Board. [Each such obligation shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the current average rate on current marketable obligations of the United States of comparable maturities as of the last day of the month preceding the issuance of the obligations of the Board.] The Secretary of the Treasury is authorized and directed to purchase any obligations of the Board to be issued under this section and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31 and the purposes for which securities may be issued under chapter 31 of title 31 are extended to include any purchases of the Board's obligations under this section.

(b) Effective as of the date of enactment of this subsection the obligations of the Board incurred under subsection (a) of this section shall bear no interest, and the requirement of the Board to pay the unpaid interest which has accrued on such obligations is terminated.

(c) There is hereby established in the Treasury of the United States a sinking fund, the Kennedy Center Revenue Bond Sinking Fund (hereinafter referred to as the "Fund"), which shall be used to retire the obligations of the Board incurred under subsection (a) of

this section upon the respective maturities of such obligations. The Board shall pay into the Fund, beginning on January 1, 1987 and ending on January 1, 2016, the annual sum of $200,000 in amortization of the principal amount of the obligations. Such sums shall be invested by the Secretary of the Treasury in public debt securities with maturities suitable for the needs of the Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities. The interest on such investments shall be credited to and form a part of the Fund. Moneys in the Fund shall be used exclusively to retire the obligations of the Board incurred under subsection (a) of this section. Adjustments of not greater than plus or minus 5 per centum may be made from time to time in the annual payments to the Fund in order to correct any gains or deficiencies as a result of fluctuations in interest rates over the life of the investments: Provided, however, That a final adjustment shall be made between the Board and the Secretary of the Treasury at the end of the amortization period to correct any overall gain or deficiency in the Fund. The terms of this adjustment shall be covered by a memorandum of understanding between the Board and the Secretary of the Treasury to be consummated on or before the time the initial payment into the Fund is made.

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